



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

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**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
WASTE MANAGEMENT OF VIRGINIA, INC.  
FOR THE  
MAPLEWOOD LANDFILL  
VWP Permit No. 15-1661**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Waste Management of Virginia, Inc., regarding the Maplewood Landfill, Amelia County, Virginia, for the purpose of resolving certain violations of State Water Control Law and the applicable permit and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Discharge" means, when used without qualification, a discharge of a pollutant, or any addition of a pollutant or combination of pollutants, to state waters or waters of the contiguous zone or ocean other than a discharge from a vessel or other floating craft when being used as a means of transportation.
5. "Facility" or "Site" means the Maplewood Landfill located at 20221 Maplewood Road, Jetersville Virginia. The Facility is owned and operated by Waste Management of Virginia, Inc.
6. "Fill" means replacing portions of surface water with upland, or changing the bottom elevation of surface water for any purpose, by placement of any pollutant or material including but not limited to rock, sand, earth, and man-made materials and debris. 9 VAC 25-210-10.
7. "Fill Material" means any pollutant which replaces portions of surface water with dry land or which changes the bottom elevation of a surface water for any purpose. 9 VAC 25-210-10.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
10. "Permit" means VWP Individual Permit number 15-1661 authorizing wetland impacts from the development of the Maplewood Landfill and issued to Waste Management of Virginia, Inc.
11. "Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to pollution.
12. "Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters: (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses; provided that (a) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners is sufficient to cause pollution; (b) the discharge of untreated sewage by any owner into state waters; and (c) contributing to the contravention of standards of water quality duly established by the board, are "pollution."

13. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
14. "Regulations" means the VWP Permit Program Regulations, 9 VAC 25-210 *et seq.*
15. "Restoration" means the reestablishment of a wetland or other aquatic resource in an area where it previously existed. Wetland restoration means the reestablishment of wetland hydrology and vegetation in an area where a wetland previously existed. Stream restoration means the process of converting an unstable, altered or degraded stream corridor, including adjacent areas and floodplains, to its natural conditions.
16. "Significant alteration or degradation of existing wetland acreage or function" means human-induced activities that cause either a diminution of the areal extent of the existing wetland or cause a change in wetland community type resulting in the loss or more than minimal degradation of its existing ecological functions.
17. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 2.2 (Va. Code §§ 62.1-44.15:20 through 62.1-44.15:23) of the State Water Control Law addresses the Virginia Water Resources and Wetlands Protection Program.
18. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3 and 9 VAC 25-210-10.
19. "Surface water" means all state waters that are not ground waters as defined in Va. Code § 62.1-255.
20. "USACE" means the United States Army Corps of Engineers.
21. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "VWP" means Virginia Water Protection.
24. "VWP Permit" or "Virginia Water Protection Permit" means an individual or general permit issued under Va. Code § 62.1-44.15:20 that authorizes activities otherwise unlawful under Va. Code § 62.1-44.5 or otherwise serves as the Commonwealth's certification under § 401 of the federal Clean Water Act (33 United States Code ("USC") § 1344).
25. "Waste Management" means Waste Management of Virginia, Inc., a Virginia corporation authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Waste Management is a "person" within the meaning of Va. Code § 62.1-44.3.
26. "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do

support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. 9 VAC 25-210-10.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. On May 31, 2016, DEQ granted coverage to Waste Management under a VWP Permit for impacts to surface waters associated with construction activities at the Waste Management Maplewood Landfill located in Amelia County, assigning it a VWP Individual Permit number 15-1661.
2. On February 14, 2019, after commencing with construction of Waste Disposal Phases 23 and 26, Waste Management staff observed several areas of inadequate and failed silt fence which resulted in impacts to state waters near the western side of Waste Disposal Phase 26. Waste Management staff reported the event to DEQ on February 15, 2019 and that it corrective action had begun to remove the discharged sediment from state waters.
3. On March 18, 2019, DEQ staff conducted a VWP Permit compliance inspection at the Maplewood Landfill in response to the February 15<sup>th</sup> discharge report. During the March 18, 2019 inspection, DEQ staff observed approximately 0.42 acres of palustrine emergent wetland, 0.22 acres of palustrine scrub shrub wetland, and 0.14 acres of palustrine forested wetland were significantly altered by the accumulation of one to 12 inches of sediment in varying locations throughout the site.
4. On March 28, 2019, the Department requested Waste Management to provide DEQ with the total square feet of each impact area as reported in the correspondence dated February 15, 2019. Also, The Department requested removal of the compost placed in these impact areas as this action constitutes an unauthorized fill activity. In addition, the Department requested that Waste Management reseed with an approved wetland seed mix and provide impact numbers and photos of the corrective action by April 5, 2019.
5. On April 5, 2019, Waste Management submitted a Wetland Sediment Release Corrective Action Plan (CAP). The plan outlined procedures for sediment removal activities to restore the value and function of the impacted wetlands.
6. On April 17, 2019, the Department provided Waste Management with a copy of the March 18, 2019 inspection report, and comments on the CAP submitted on April 5, 2019. Between May 2019 and July 2019 Waste Management responded to DEQ's comments to the CAP and initiated corrective action accordingly. The CAP was approved by the Department on July 12, 2019.
7. On July 19, 2019, Waste Management notified the Department that sediment removal activities were complete at the Facility. In the figure entitled "Maplewood Landfill Wetland Sediment Release, Corrective Action Plan, Wetland and Sediment Delineation Map (1 of 2) Drawing 3" dated July 19, 2019, Waste Management reported that approximately 32 linear feet of intermittent stream channel and 7 linear feet of ephemeral stream channel

have been impacted. The final CAP quarterly monitoring report was submitted on April 6, 2020 which concluded the CAP corrective action activities for the February 2019 sediment release impacts (areas 1–7) to the Phase 1 and 2 wetlands at the Landfill.

8. Va. Code §62.1-44.15:20(A) states “A. Except in compliance with an individual or general Virginia Water Protection Permit issued in accordance with this article, it shall be unlawful to: 1. Excavate in a wetland; 2. On or after October 1, 2001, conduct the following in a wetland: a. New activities to cause draining that significantly alters or degrades existing wetland acreage or function; b. Filling or dumping; c. Permanent flooding or impounding; or d. New activities that cause significant alteration or degradation of existing wetland acreage or functions; or 3. Alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses unless authorized by a certificate issued by the Board.
9. 9VAC 25-210-50 (A) states that “Except in compliance with a VWP permit, no person shall dredge, fill or discharge any pollutant into, or adjacent to surface waters, withdraw surface water, otherwise alter the physical, chemical or biological properties of surface waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses; excavate in wetlands or on or after October 1, 2001, conduct the following activities in a wetland: 1. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions; 2. Filling or dumping; 3. Permanent flooding or impounding; or 4. New activities that cause significant alteration or degradation of existing wetland acreage or functions.”
10. Part I.D.13 of the VWP Individual Permit states, “Stormwater runoff shall be prohibited from directly discharging into any surface waters. Best management practices (BMP) designed, installed, and maintained, as described in the Virginia Erosion and Sediment Control Handbook (Third Edition, 1992, or the most recent version in effect at the time of construction) and the Virginia Stormwater Management Handbook (First Edition, 1999, or the most recent version in effect at the time of construction), shall be deemed suitable treatment prior to discharge into surface waters. Installation of alternative practices not described in these references shall be submitted to DEQ for approval prior to beginning construction.”
11. Part I.D.19 of the VWP Individual Permit states, “All temporarily impacted streams and stream banks shall be restored to their original elevations and contours within 30 calendar days following the construction at that stream segment, and the banks shall be seeded or planted with the same vegetative cover type originally present along the banks, including supplemental erosion control grasses if necessary but not including invasive species identified on DCR's Invasive Alien Plant Species of Virginia list. The permittee shall take all appropriate measures to promote and maintain the revegetation of temporarily disturbed surface waters through the second year post disturbance.”

12. Part I.D.24 of the VWP Individual Permit states, “Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, or the most recent version in effect at the time of construction. These controls shall be placed prior to clearing and grading activities and shall be maintained in good working order, to minimize impacts to surface waters. These controls shall remain in place only until clearing and grading activities cease and these areas have been stabilized.”
13. Part I.E.I of the VWP Individual Permit states, “Any exposed slopes or streambanks shall be stabilized immediately upon completion of work in each impact area. Methods and materials for stabilization shall be in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, or the most recent version in effect at the time of construction.”
14. On September 4, 2019, the Department issued an NOV to Waste Management for wetland impacts at the Facility observed by Department staff during the March 18, 2019 inspection of the Site.
15. On October 7, 2019, the Department met with Waste Management to discuss the NOV and the issuance of this Order.
16. On November 11, 2019, Waste Management informed the Department that all corrective actions had been completed.
17. On September 8, 2020 the USACOE issued an after-the-fact Nationwide Permit 32 to Waste Management for the Site.
18. Based on the results of the March 18, 2019 Department inspection, the April 5, 2019 CAP, and the October 7, 2019, meeting, the Board concludes that Waste Management has violated Va. Code § 62.1-44.15:20.A, 9 VAC 25-210-50.A, and Permit conditions Part I.D.13, Part I.D.19, Part I.D.24, Part I.E.1, as described in paragraph C(3) above.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Waste Management and Waste Management agrees to pay a civil charge of \$ 27,000 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier’s check payable to the “Treasurer of Virginia,” and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Waste Management shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Waste Management for good cause shown by Waste Management, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Waste Management admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Waste Management consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Waste Management declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Waste Management to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Waste Management shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Waste Management shall demonstrate that such

circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Waste Management shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Waste Management. Nevertheless, Waste Management agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Waste Management has completed all of the requirements of the Order;
  - b. Waste Management petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Waste Management.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Waste Management from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Waste Management and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Waste Management certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Waste Management to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official or officer of Waste Management
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Waste Management voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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James J. Golden  
Department of Environmental Quality  
Piedmont Regional Director

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Waste Management of Virginia, Inc. voluntarily agrees to the issuance of this Order.

Date: 10/5/2021 By: [Signature] Director of Disposal Operations  
(Person) (Title)  
Waste Management of Virginia, Inc.

Commonwealth of Virginia

City/County of Hampton

The foregoing document was signed and acknowledged before me this 5th day of

October, 2021, by Narcid Scott Thacker who is

Director of Disposal Operations of Waste Management of Virginia, Inc.

[Signature]  
Notary Public

202784

Registration No.

My commission expires: 11-30-2021

Notary seal:

